

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>CC DOCKET NO. 96-45</b>
	<b>§</b>	
<b>LIFELINE AND LINK-UP</b>	<b>§</b>	<b>WC DOCKET NO. 03-109</b>

**COMMENTS OF THE  
TEXAS OFFICE OF PUBLIC UTILITY COUNSEL**

The Texas Office of Public Utility Counsel (“OPC”) is the independent Texas state agency that represents over six million Texas residential and small business consumers in telecommunication proceedings. OPC submits these reply comments to comments filed in this docket.

**I.**

Commentators such as the Florida Public Service Commission<sup>1</sup> support the Joint Boards’ recommendation<sup>2</sup> that states not be required to utilize minimum eligibility criteria established by the FCC. Paradoxically, the Florida Public Service Commission (“FPSC”) also opines that the FCC establish minimum procedures to verify eligibility utilizing an income-based criterion for eligibility.<sup>3</sup> While OPC agrees with the FPSC’s comments that the federal eligibility standards be enlarged, OPC notes that allowing states to restrict eligibility as the FPSC advocates substantially reduces the effects, and conflicts with the intended effects, of expanding federal eligibility guidelines. As OPC will discuss in more detail, the Commission should:

- adopt minimum eligibility requirements state programs must meet; and
- allow self-certification for income-based eligibility criteria.

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<sup>1</sup> Comments of Florida Public Service Commission, p. 3.

<sup>2</sup> See In the Matter of Federal – State Board on Universal Service, Recommended Decision, cc Docket No. 96-45 (FCC April 2, 2003) (“Recommended Decision”).

## **II. Expanded Eligibility Requirements**

OPC joins with the Joint Boards' recommendation to expand federal eligibility to include an income-based eligibility criterion and the other two program participation criterion. As noted in OPC's initial comments, Texas' inclusion of an income-based criteria has substantially increased subscribership.<sup>4</sup> Verizon's comments encourage the FCC continue with the status quo<sup>5</sup> contending that adding programs would hurt those states with the lowest levels of telephone penetration.<sup>6</sup> Verizon further notes that telephone consumers in Alabama with one of the lowest penetration levels could be made worse off if federal eligibility criteria were expanded. Alabama has one of the most restrictive eligibility criteria for Lifeline, limiting participation in Lifeline and Link-up to Medicaid program participants.<sup>7</sup> Consequently, the reason Alabama consumers would be worse off under enhanced federal eligibility criteria is if its state program continues to restrict eligibility. The hurt characterized by Verizon is self-inflicted.

OPC encourages the FCC to adopt the Joint Boards' decision to broaden federal eligibility requirements. For those reasons, stated in its initial comments, OPC recommends the income-based criterion be increased to 150% poverty.<sup>8</sup> OPC notes that Ohio currently utilizes a 150% income eligibility criteria. OPC agrees with OPC that use of a 150% poverty levels captures "more household that qualify as elderly or fall into the working poor category."<sup>9</sup>

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<sup>3</sup> See Comments, Florida Public Service Comments at 4 and 5.

<sup>4</sup> OPC's Initial Comments, Aug. 18, 2003, pp. 5-6.

<sup>5</sup> See Comments of Verizon, pp. 3-4.

<sup>6</sup> Id. at 3.

<sup>7</sup> Alabama Public Service's Website, [www.puc.state.al.us](http://www.puc.state.al.us).

<sup>8</sup> See OPC comments pp. 5-6.

### **III. Automatic Enrollment and Minimum Eligibility Standards**

OPC disagrees with commentators that state programs be free to use more restrictive eligibility requirements.<sup>10</sup> Establishing minimum eligibility standards state programs must utilize will resolve the concern expressed by Verizon in its comments. Verizon argues that expanding federal eligibility standards penalizes consumers in states with lower telephone penetration rates.<sup>11</sup> Verizon's reasoning assumes "states currently receiving the maximum level of Lifeline support would receive more under the new proposed criteria, while states that are not receiving the maximum amount of support under the current rules would find that more and more of their consumers' telecommunications costs (sic) are going to support consumers in other states."<sup>12</sup>

By requiring minimum eligibility standards the state must maintain, the FCC ensures that those state programs currently with restrictive eligibility criteria such as Alabama would expand their eligibility criteria thereby increasing subscribership. Increasing subscribership furthers universal service goals. Requiring state programs to utilize minimum eligibility criteria standards addresses Verizon's cross-subsidization concerns. The cross-subsidization of one state's telephone Lifeline and Link-up subscribers by another state's telephone consumers should substantially end when state programs utilize the same core eligibility standards. Accordingly, minimum standards will greater ensure that low income consumers regardless of residence will have access to Lifeline and Linkup.

OPC is also recommending that the FCC require automatic enrollment. In Texas, automatic enrollment has resulted in substantial progress in meeting the goals of Universal

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<sup>9</sup> Comments State of Ohio, Office of the Attorney General (August 18, 2003).

<sup>10</sup>See, for example, FPSC's comments at 2-3.

<sup>11</sup> See Verizon comments at pp. 3-5.

Service. In the summer of 2001 when automatic enrollment in Texas' state program was initiated, Texas had 235,856 customers in Lifeline. By the end of 2001, Texas had added 113,354 customers in Lifeline. Of this amount, 63,000 customers were provided Link-Up discounts. An additional 63,089 customers were connected to Lifeline in the first eight months of 2002.<sup>13</sup> Texas's statistics provide a stunning endorsement for automatic enrollment. The level of Texas' increased subscribership shows the necessity of automatic enrollment.

OPC encourages the FCC to require state programs to utilize minimum eligibility standards established by the FCC and require state programs to utilize automatic enrollment.

#### **IV. Self-Certification**

Many commentators assumed fraud will abound if consumers are allowed to self-certify for Lifeline and Link-Up service under an income-based eligibility criteria.<sup>14</sup> Texas currently utilizes self-certification involving its income-based criterion for eligibility. To date the state program has had no problems of fraud.<sup>15</sup> No commentator has provided actual evidence of fraud. No commentator has shown that the costs of preventing fraud is less than the costs involved in self-certification. Commentators such as the state of California have found that costs of a verification procedure would exceed losses resulting from fraud or abuse.<sup>16</sup>

In addition to the Joint Boards' recommended imposition of verification procedures seems contrary to its belief that states should have program flexibility. OPC notes that the State of California comments point out that the FCC has previously allowed states flexibility in determining verification for Lifeline eligibility.<sup>17</sup>

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<sup>12</sup>Id. at 4, 5.

<sup>13</sup> Statistics

<sup>14</sup>See, for example, FPSC's comments 3-4, Verizon's comments 5, 6.

<sup>15</sup> Telephone Interview, Tex. PUC Staff, August 15, 2003.

<sup>16</sup> See comments of State of California at p. 9.

<sup>17</sup>Id. at 8.

In the absence of evidence of fraud; in the absence of any study showing actual savings; and more, importantly, in the existence of state programs successfully using self-certification to determine Lifeline and Link-Up program eligibility based on income, OPC urges the Commission to allow state programs to allow self-certification for Lifeline and Link-up program eligibility based on income.

Respectfully submitted,

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